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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 79/09-09

12 **E & S AUTO SMOG**
13 1180 East 9th Street, #A3
San Bernardino, CA 92410
14 **SALVADOR JARA, AKA**
SALVADOR JARA PINEDO, OWNER

A C C U S A T I O N

SMOG CHECK

15 Automotive Repair Dealer
16 Registration No. ARD 249395
Smog Check Test Only Station
17 License No. TC 249395

18 **KHALDOUN ROUFAIL SAMAAAN**
4953 North F Street
19 San Bernardino, CA 92407

20 Advanced Emission Specialist Technician
License No. EA 154168

21 Respondents.

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23 Sherry Mehl ("Complainant") alleges:

24 **PARTIES**

25 1. Complainant brings this Accusation solely in her official capacity as the
26 Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

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Automotive Repair Dealer Registration

2. On or about March 28, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 249395 ("registration") to Salvador Jara, also known as Salvador Jara Pinedo ("Respondent Jara"), doing business as E & S Auto Smog. The registration will expire on February 28, 2009.

Smog Check Test Only Station License

3. On or about April 16, 2007, the Bureau issued Smog Check Test Only Station License Number TC 249395 ("station license") to Respondent Jara. The station license will expire on February 28, 2009.

Advanced Emission Specialist Technician License

4. On or about March 1, 2007, the Bureau issued Advanced Emission Specialist Technician License Number EA 154168 ("technician license") to Khaldoun Roufail Samaan ("Respondent Samaan"). The technician license will expire on July 31, 2009.

STATUTORY PROVISIONS

5. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(4) Any other conduct which constitutes fraud.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

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(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

7. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

8. Health and Safety Code section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

9. Health and Safety Code section 44072.2 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

10. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

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2 11. Health and Safety Code section 44072.8 states:

3 “When a license has been revoked or suspended following a hearing under this
4 article, any additional license issued under this chapter in the name of the licensee may be
5 likewise revoked or suspended by the director.”

6 **COST RECOVERY**

7 12. Code section 125.3 provides, in pertinent part, that a Board may request
8 the administrative law judge to direct a licensee found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

11 **SURVEILLANCE OPERATION - JULY 9, 2007**

12 13. On or about July 9, 2007, the Bureau performed a visual surveillance at
13 Respondent Jara’s facility. The surveillance operation and information obtained from the
14 Bureau’s Vehicle Information Database (“VID”) revealed that between approximately 1208
15 hours and 1217 hours, Respondent Samaan performed a smog inspection that resulted in the
16 issuance of electronic Certificate of Compliance, No. VH888147C, certifying that he had tested
17 and inspected a 2003 Chevrolet Trailblazer, California License Plate No. 5AWR201, and that the
18 vehicle was in compliance with applicable laws and regulations. In fact, Respondent Samaan
19 performed the smog inspection using the clean-piping method¹ by using the tail pipe emissions
20 of a Ford F150 pickup in order to issue the certificate for the 2003 Chevrolet Trailblazer. The
21 vehicle certified was not in the test bay at the time of the smog inspection.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Untrue or Misleading Statements)

24 14. Respondent Jara has subjected his registration to discipline under Code
25 section 9884.7, subdivision (a)(1), in that on or about July 9, 2007, regarding the 2003 Chevrolet
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27 1. “Clean-piping” is sampling the (clean) tailpipe emissions and/or the RPM readings of another vehicle for
28 the purpose of illegally issuing smog certifications to vehicles that are not in compliance or are not present in the
smog check area during the time of the certification.

1 Trailblazer, he made statements which he knew or which by exercise of reasonable care he
2 should have known were untrue or misleading when Respondent Jara issued electronic
3 Certificate of Compliance No. VH888147C for the vehicle, certifying that it was in compliance
4 with applicable laws and regulations when, in fact, the vehicle had been clean-piped.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Fraud)

7 15. Respondent Jara has subjected his registration to discipline under Code
8 section 9884.7, subdivision (a)(4), in that on or about July 9, 2007, regarding the 2003 Chevrolet
9 Trailblazer, he committed acts which constitute fraud, by issuing electronic Certificate of
10 Compliance No. VH888147C for the vehicle without performing a bona fide inspection of the
11 emission control devices and systems on the vehicle, thereby depriving the People of the State of
12 California of the protection afforded by the Motor Vehicle Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

14 (Violation of the Motor Vehicle Inspection Program)

15 16. Respondent Jara has subjected his station license to discipline under
16 Health and Safety Code section 44072.2, subdivision (a), in that on or about July 9, 2007,
17 regarding the 2003 Chevrolet Trailblazer, he violated sections of that Code, as follows:

18 a. **Section 44012, subdivision (f):** Respondent Jara failed to perform
19 emission control tests on the vehicle in accordance with procedures prescribed by the
20 department.

21 b. **Section 44015, subdivision (b):** Respondent Jara issued electronic
22 Certificate of Compliance No. VH888147C for the vehicle without properly testing and
23 inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

24 c. **Section 44059:** Respondent Jara willfully made false entries for
25 electronic Certificate of Compliance No. VH888147C, by certifying that the vehicle had been
26 inspected as required when, in fact, it had not.

27 **FOURTH CAUSE FOR DISCIPLINE**

28 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

1 that all emission control devices and systems required by law were installed and functioning
2 correctly on the vehicle in accordance with test procedures.

3 b. **Section 44032:** Respondent Samaan failed to perform tests of the
4 emission control devices and systems on the vehicle in accordance with section 44012 of that
5 Code, in that the vehicle had been clean-piped.

6 c. **Section 44059:** Respondent Samaan entered false information into the
7 Emission Inspection System ("EIS") for electronic Certificate of Compliance No. VH888147C,
8 by certifying that the vehicle had been inspected as required when, in fact, it had not.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

11 20. Respondent Samaan has subjected his technician license to discipline
12 under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 9, 2007,
13 regarding the 2003 Chevrolet Trailblazer, he violated sections of the California Code of
14 Regulations, title 16, as follows:

15 a. **Section 3340.30, subdivision (a):** Respondent Samaan failed to inspect
16 and test the vehicle in accordance with Health and Safety Code section 44012.

17 b. **Section 3340.41, subdivision (c):** Respondent Samaan entered false
18 information into the EIS for electronic Certificate of Compliance No. VH888147C for the
19 vehicle, by entering vehicle identification information or emission control information for a
20 vehicle other than the vehicle being tested.

21 c. **Section 3340.42:** Respondent Samaan failed to conduct the required
22 smog tests and inspections of the vehicle in accordance with the Bureau's specifications.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 (Dishonesty, Fraud or Deceit)

25 21. Respondent Samaan has subjected his technician license to discipline
26 under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 9, 2007,
27 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
28 electronic Certificate of Compliance No. VH888147C for the 2003 Chevrolet Trailblazer without

1 performing a bona fide inspection of the emission control devices and systems on the vehicle,
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3 thereby depriving the People of the State of California of the protection afforded by the Motor
4 Vehicle Inspection Program.

5 **SURVEILLANCE OPERATION - AUGUST 15, 2007**

6 22. On or about August 15, 2007, the Bureau performed a videotaped
7 surveillance at Respondent Jara's facility. The surveillance operation and information obtained
8 from the Bureau's VID revealed that between approximately 1600 hours to 1605 hours,
9 Respondent Samaan performed a smog inspection that resulted in the issuance of electronic
10 Certificate of Compliance, No. VJ429128C, certifying that he had tested and inspected a 1997
11 Honda Civic, California License Plate No. 5FCW300, and that the vehicle was in compliance
12 with applicable laws and regulations. In fact, Respondent Samaan performed the smog
13 inspection using the clean-piping method by using the tail pipe emissions of a Dodge Dakota
14 pick up in order to issue the certificate for the 1997 Honda Civic. The vehicle certified was not
15 in the test bay at the time of the smog inspection.

16 **NINTH CAUSE FOR DISCIPLINE**

17 (Untrue or Misleading Statements)

18 23. Respondent Jara has subjected his registration to discipline under Code
19 section 9884.7, subdivision (a)(1), in that on or about August 15, 2007, regarding the 1997
20 Honda Civic, he made statements which he knew or which by exercise of reasonable care he
21 should have known were untrue or misleading when Respondent Jara issued electronic
22 Certificate of Compliance No. VJ429128C for the vehicle, certifying that it was in compliance
23 with applicable laws and regulations when, in fact, the vehicle had been clean-piped.

24 **TENTH CAUSE FOR DISCIPLINE**

25 (Fraud)

26 24. Respondent Jara has subjected his registration to discipline under Code
27 section 9884.7, subdivision (a)(4), in that on or about August 15, 2007, regarding the 1997
28 Honda Civic, he committed acts which constitute fraud, by issuing electronic Certificate of

1 Compliance No. VJ429128C for the vehicle without performing a bona fide inspection of the
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3 emission control devices and systems on the vehicle, thereby depriving the People of the State of
4 California of the protection afforded by the Motor Vehicle Inspection Program.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

6 (Violation of the Motor Vehicle Inspection Program)

7 25. Respondent Jara has subjected his station license to discipline under
8 Health and Safety Code section 44072.2, subdivision (a), in that on or about August 15, 2007,
9 regarding the 1997 Honda Civic, he violated sections of that Code, as follows:

10 a. **Section 44012, subdivision (f):** Respondent Jara failed to perform
11 emission control tests on the vehicle in accordance with procedures prescribed by the
12 department.

13 b. **Section 44015, subdivision (b):** Respondent Jara issued electronic
14 Certificate of Compliance No. VJ429128C for the vehicle without properly testing and
15 inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

16 c. **Section 44059:** Respondent Jara willfully made false entries for
17 electronic Certificate of Compliance No. VJ429128C, by certifying that the vehicle had been
18 inspected as required when, in fact, it had not.

19 **TWELFTH CAUSE FOR DISCIPLINE**

20 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

21 26. Respondent Jara has subjected his station license to discipline under
22 Health and Safety Code section 44072.2, subdivision (c), in that on or about August 15, 2007,
23 regarding the 1997 Honda Civic, he violated sections of the California Code of Regulations, title
24 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Jara falsely or fraudulently
26 issued electronic Certificate of Compliance No. VJ429128C for the vehicle without performing a
27 bona fide inspection of the emission control devices and systems on the vehicle as required by
28 Health and Safety Code section 44012.

1 b. Section 3340.35, subdivision (c): Respondent Jara issued electronic
2 Certificate of Compliance No. VJ429128C for the vehicle, even though the vehicle had not been
3 inspected in accordance with section 3340.42 of that Code.

4 c. Section 3340.42: Respondent Jara failed to conduct the required smog
5 tests and inspections on the vehicle in accordance with the Bureau's specifications.

6 **THIRTEENTH CAUSE FOR DISCIPLINE**

7 (Dishonesty, Fraud or Deceit)

8 27. Respondent Jara has subjected his station license to discipline under
9 Health and Safety Code section 44072.2, subdivision (d), in that on or about August 15, 2007,
10 regarding the 1997 Honda Civic, he committed acts involving dishonesty, fraud or deceit
11 whereby another was injured by issuing electronic Certificate of Compliance No. VJ429128C for
12 the vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby
13 depriving the People of the State of California of the protection afforded by the Motor Vehicle
14 Inspection Program.

15 **FOURTEENTH CAUSE FOR DISCIPLINE**

16 (Violations of the Motor Vehicle Inspection Program)

17 28. Respondent Samaan has subjected his technician license to discipline
18 under Health and Safety Code section 44072.2, subdivision (a), in that on or about August 15,
19 2007, regarding the 1997 Honda Civic, he violated sections of that Code, as follows:

20 a. Section 44012, subdivision (f): Respondent Samaan failed to determine
21 that all emission control devices and systems required by law were installed and functioning
22 correctly on the vehicle in accordance with test procedures.

23 b. Section 44032: Respondent Samaan failed to perform tests of the
24 emission control devices and systems on the vehicle in accordance with section 44012 of that
25 Code, in that the vehicle had been clean-piped.

26 c. Section 44059: Respondent Samaan entered false information into the
27 EIS for electronic Certificate of Compliance No. VJ429128C, by certifying that the vehicle had
28 been inspected as required when, in fact, it had not.

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4 **FIFTEENTH CAUSE FOR DISCIPLINE**

5 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

6 29. Respondent Samaan has subjected his technician license to discipline
7 under Health and Safety Code section 44072.2, subdivision (c), in that on or about August 15,
8 2007, regarding the 1997 Honda Civic, he violated sections of the California Code of
9 Regulations, title 16, as follows:

10 a. **Section 3340.30, subdivision (a):** Respondent Samaan failed to inspect
11 and test the vehicle in accordance with Health and Safety Code section 44012.

12 b. **Section 3340.41, subdivision (c):** Respondent Samaan entered false
13 information into the EIS for electronic Certificate of Compliance No. VJ429128C for the
14 vehicle, by entering vehicle identification information or emission control information for a
15 vehicle other than the vehicle being tested.

16 c. **Section 3340.42:** Respondent Samaan failed to conduct the required
17 smog tests and inspections of the vehicle in accordance with the Bureau's specifications.

18 **SIXTEENTH CAUSE FOR DISCIPLINE**

19 (Dishonesty, Fraud or Deceit)

20 30. Respondent Samaan has subjected his technician license to discipline
21 under Health and Safety Code section 44072.2, subdivision (d), in that on or about August 15,
22 2007, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
23 issuing electronic Certificate of Compliance No. VJ429128C for the 1997 Honda Civic without
24 performing a bona fide inspection of the emission control devices and systems on the vehicle,
25 thereby depriving the People of the State of California of the protection afforded by the Motor
26 Vehicle Inspection Program.

27 **SURVEILLANCE OPERATION - JANUARY 16, 2008**

28 31. On or about January 16, 2008, the Bureau performed a videotaped

1 surveillance at Respondent Jara's facility. The surveillance operation and information obtained
 2 from the Bureau's VID revealed that between approximately 0839 hours to 1239 hours,
 3 Respondent Samaan performed six smog inspections, resulting in the issuance of two illegal
 4 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set
 5 forth in Table 1, below, and that those vehicles were in compliance with applicable laws and
 6 regulations. In fact, Respondent Samaan performed those smog inspections using the clean-
 7 piping method by using the tail pipe emissions of vehicles other than the vehicles being certified
 8 in order to issue those certificates. Neither of the vehicles certified were in the test bay at the
 9 time of the smog inspections.

10 **TABLE 1**

Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
1/16/2008 0839-0857 hours	1993 Honda Civic License No. 5ADZ867	Minivan or Pontiac GrandAm	VN226173C	Samaan
1/16/2008 1200-1209 hours	1990 Toyota 4Runner Vehicle Identification Number (VIN): JT3VN39W5L0015134	1997 Toyota 4Runner	VN226177C	Samaan

17 **SEVENTEENTH CAUSE FOR DISCIPLINE**

18 (Untrue or Misleading Statements)

19 32. Respondent Jara has subjected his registration to discipline under Code
 20 section 9884.7, subdivision (a)(1), in that on or about January 16, 2008, he made statements
 21 which he knew or which by exercise of reasonable care he should have known were untrue or
 22 misleading when he issued the electronic certificates of compliance set forth in Table 1, above,
 23 certifying that the vehicles were in compliance with applicable laws and regulations when, in
 24 fact, those vehicles had been clean-piped.

25 **EIGHTEENTH CAUSE FOR DISCIPLINE**

26 (Fraud)

27 33. Respondent Jara has subjected his registration to discipline under Code
 28 section 9884.7, subdivision (a)(4), in that on or about January 16, 2008, he committed acts which

1 constitute fraud by issuing the electronic certificates of compliance set forth in Table 1, above,
2 without performing bona fide inspections of the emission control devices and systems on those
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4 vehicles, thereby depriving the People of the State of California of the protection afforded by the
5 Motor Vehicle Inspection Program.

6 **NINETEENTH CAUSE FOR DISCIPLINE**

7 (Violation of the Motor Vehicle Inspection Program)

8 34. Respondent Jara has subjected his station license to discipline under
9 Health and Safety Code section 44072.2, subdivision (a), in that on or about January 16, 2008,
10 regarding the vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

11 a. **Section 44012, subdivision (f):** Respondent Jara failed to perform
12 emission control tests on those vehicles in accordance with procedures prescribed by the
13 department.

14 b. **Section 44015, subdivision (b):** Respondent Jara issued the electronic
15 certificates of compliance for those vehicles without properly testing and inspecting them to
16 determine if the vehicles were in compliance with section 44012 of that Code.

17 c. **Section 44059:** Respondent Jara willfully made false entries for the
18 electronic certificates of compliance, by certifying that those vehicles had been inspected as
19 required when, in fact, they had not.

20 **TWENTIETH CAUSE FOR DISCIPLINE**

21 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

22 35. Respondent Jara has subjected his station license to discipline under
23 Health and Safety Code section 44072.2, subdivision (c), in that on or about January 16, 2008,
24 regarding the vehicles set forth in Table 1, above, he violated sections of the California Code of
25 Regulations, title 16, as follows:

26 a. **Section 3340.24, subdivision (c):** Respondent Jara falsely or fraudulently
27 issued the electronic certificates of compliance for those vehicles without performing bona fide
28 inspections of the emission control devices and systems on the vehicles as required by Health

1 and Safety Code section 44012.

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4 b. **Section 3340.35, subdivision (c):** Respondent Jara issued the electronic
5 certificates of compliance set forth in Table 1, above, for those vehicles even though the vehicles
6 had not been inspected in accordance with section 3340.42 of that Code.

7 c. **Section 3340.42:** Respondent Jara failed to conduct the required smog
8 tests and inspections of those vehicles in accordance with the Bureau's specifications.

9 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

10 (Dishonesty, Fraud or Deceit)

11 36. Respondent Jara has subjected his station license to discipline under
12 Health and Safety Code section 44072.2, subdivision (d), in that on or about January 16, 2008,
13 regarding the vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud
14 or deceit whereby another was injured by issuing the electronic certificates of compliance for
15 those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby
16 depriving the People of the State of California of the protection afforded by the Motor Vehicle
17 Inspection Program.

18 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

19 (Violations of the Motor Vehicle Inspection Program)

20 37. Respondent Samaan has subjected his technician license to discipline
21 under Health and Safety Code section 44072.2, subdivision (a), in that on or about January 16,
22 2008, regarding the vehicles set forth in Table 1, above, he violated sections of that Code, as
23 follows:

24 a. **Section 44012, subdivision (f):** Respondent Samaan failed to determine
25 that all emission control devices and systems required by law were installed and functioning
26 correctly on those vehicles in accordance with test procedures.

27 b. **Section 44032:** Respondent Samaan failed to perform tests of the
28 emission control devices and systems on those vehicles in accordance with section 44012 of that

1 Code, in that the vehicles had been clean-piped.

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4 c. **Section 44059:** Respondent Samaan entered false information into the
5 EIS for the electronic certificates of compliance by certifying that those vehicles had been
6 inspected as required when, in fact, they had not.

7 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

8 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

9 38. Respondent Samaan has subjected his technician license to discipline
10 under Health and Safety Code section 44072.2, subdivision (c), in that on or about January 16,
11 2008, regarding the vehicles set forth in Table 1, above, he violated sections of the California
12 Code of Regulations, title 16, as follows:

13 a. **Section 3340.30, subdivision (a):** Respondent Samaan failed to inspect
14 and test those vehicles in accordance with Health and Safety Code section 44012.

15 b. **Section 3340.41, subdivision (c):** Respondent Samaan entered false
16 information into the EIS for the electronic certificates of compliance for those vehicles, by
17 entering vehicle identification information or emission control information for vehicles other
18 than the vehicles being tested.

19 c. **Section 3340.42:** Respondent Samaan failed to conduct the required
20 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

21 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

22 (Dishonesty, Fraud or Deceit)

23 39. Respondent Samaan has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (d), in that on or about January 16,
25 2008, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
26 issuing the electronic certificates of compliance set forth in Table 1, above, for those vehicles
27 without performing bona fide inspections of the emission control devices and systems on those
28 vehicles, thereby depriving the People of the State of California of the protection afforded by the

1 Motor Vehicle Inspection Program.

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4 **SURVEILLANCE OPERATION - JANUARY 18, 2008**

5 40. On or about January 18, 2008, the Bureau performed a videotaped
6 surveillance at Respondent Jara's facility. The surveillance operation and information obtained
7 from the Bureau's VID revealed that between approximately 0727 hours to 1639 hours,
8 Respondent Samaan performed sixteen smog inspections, resulting in the issuance of five illegal
9 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set
10 forth in Table 2, below, and that those vehicles were in compliance with applicable laws and
11 regulations. In fact, Respondent Samaan performed those smog inspections using the clean-
12 piping method by using the tail pipe emissions of vehicles other than the vehicles being certified
13 in order to issue those certificates. None of the vehicles certified were in the test bay at the time
14 of the smog inspections.

15 **TABLE 2**

Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
1/18/2008 1157-1200 hours	2000 Ford Expedition License No. 5LME281	Honda Civic	VN294801C	Samaan
1/18/2008 1228-1241 hours	1993 Toyota Camry License No.5NGN300	Toyota 4Runner	VN294802C	Samaan
1/18/2008 1255-1305 hours	1982 Ford F100 pickup License No. 2F84368	Minivan	VN294803C	Samaan
1/18/2008 1322-1343 hours	1989 Honda Civic License No. 2LYM062	Nissan Altima	VN294805C	Samaan
1/18/2008 1552-1606 hours	1994 Mitsubishi Eclipse VIN No. 4A3CF44E0RE006418	Lincoln Sedan	VN294809C	Samaan

28 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

1 (Untrue or Misleading Statements)

2 41. Respondent Jara has subjected his registration to discipline under Code
3 section 9884.7, subdivision (a)(1), in that on or about January 18, 2008, he made statements
4 which he knew or which by exercise of reasonable care he should have known were untrue or
5 misleading when he issued the electronic certificates of compliance set forth in Table 2, above,
6 certifying that the vehicles were in compliance with applicable laws and regulations when, in
7 fact, those vehicles had been clean-piped.

8 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

9 (Fraud)

10 42. Respondent Jara has subjected his registration to discipline under Code
11 section 9884.7, subdivision (a)(4), in that on or about January 18, 2008, he committed acts which
12 constitute fraud by issuing the electronic certificates of compliance set forth in Table 2, above,
13 without performing bona fide inspections of the emission control devices and systems on those
14 vehicles, thereby depriving the People of the State of California of the protection afforded by the
15 Motor Vehicle Inspection Program.

16 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

17 (Violation of the Motor Vehicle Inspection Program)

18 43. Respondent Jara has subjected his station license to discipline under
19 Health and Safety Code section 44072.2, subdivision (a), in that on or about January 18, 2008,
20 regarding the vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

21 a. **Section 44012, subdivision (f):** Respondent Jara failed to perform
22 emission control tests on those vehicles in accordance with procedures prescribed by the
23 department.

24 b. **Section 44015, subdivision (b):** Respondent Jara issued the electronic
25 certificates of compliance for those vehicles without properly testing and inspecting them to
26 determine if the vehicles were in compliance with section 44012 of that Code.

27 c. **Section 44059:** Respondent Jara willfully made false entries for the
28 electronic certificates of compliance, by certifying that those vehicles had been inspected as

1 required when, in fact, they had not.

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4 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

5 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

6 44. Respondent Jara has subjected his station license to discipline under
7 Health and Safety Code section 44072.2, subdivision (c), in that on or about January 18, 2008,
8 regarding the vehicles set forth in Table 2, above, he violated sections of the California Code of
9 Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Jara falsely or fraudulently
11 issued the electronic certificates of compliance for those vehicles without performing bona fide
12 inspections of the emission control devices and systems on the vehicles as required by Health
13 and Safety Code section 44012.

14 b. **Section 3340.35, subdivision (c):** Respondent Jara issued the electronic
15 certificates of compliance set forth in Table 2, above, for those vehicles even though the vehicles
16 had not been inspected in accordance with section 3340.42 of that Code.

17 c. **Section 3340.42:** Respondent Jara failed to conduct the required smog
18 tests and inspections of those vehicles in accordance with the Bureau's specifications.

19 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

20 (Dishonesty, Fraud or Deceit)

21 45. Respondent Jara has subjected his station license to discipline under
22 Health and Safety Code section 44072.2, subdivision (d), in that on or about January 18, 2008,
23 regarding the vehicles set forth in Table 2, above, he committed acts involving dishonesty, fraud
24 or deceit whereby another was injured by issuing the electronic certificates of compliance for
25 those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby
26 depriving the People of the State of California of the protection afforded by the Motor Vehicle
27 Inspection Program.

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THIRTIETH CAUSE FOR DISCIPLINE

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(Violations of the Motor Vehicle Inspection Program)

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46. Respondent Samaan has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about January 18, 2008, regarding the vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

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a. **Section 44012, subdivision (f):** Respondent Samaan failed to determine that all emission control devices and systems required by law were installed and functioning correctly on those vehicles in accordance with test procedures.

b. **Section 44032:** Respondent Samaan failed to perform tests of the emission control devices and systems on those vehicles in accordance with section 44012 of that Code, in that the vehicles had been clean-piped.

c. **Section 44059:** Respondent Samaan entered false information into the EIS for the electronic certificates of compliance by certifying that those vehicles had been inspected as required when, in fact, they had not.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

47. Respondent Samaan has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about January 18, 2008, regarding the vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.30, subdivision (a):** Respondent Samaan failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

b. **Section 3340.41, subdivision (c):** Respondent Samaan entered false information into the EIS for the electronic certificates of compliance for those vehicles, by

1 entering vehicle identification information or emission control information for vehicles other
2 than the vehicles being tested.

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4 c. **Section 3340.42:** Respondent Samaan failed to conduct the required
5 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

6 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

7 (Dishonesty, Fraud or Deceit)

8 48. Respondent Samaan has subjected his technician license to discipline
9 under Health and Safety Code section 44072.2, subdivision (d), in that on or about January 18,
10 2008, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
11 issuing the electronic certificates of compliance set forth in Table 2, above, for those vehicles
12 without performing bona fide inspections of the emission control devices and systems on those
13 vehicles, thereby depriving the People of the State of California of the protection afforded by the
14 Motor Vehicle Inspection Program.

15 **SURVEILLANCE OPERATION - JANUARY 23, 2008**

16 49. On or about January 23, 2008, the Bureau performed a videotaped
17 surveillance at Respondent Jara's facility. The surveillance operation and information obtained
18 from the Bureau's VID revealed that between approximately 0730 hours to 1603 hours,
19 Respondent Samaan performed sixteen smog inspections, resulting in the issuance of nine illegal
20 electronic certificates of compliance, certifying that he had tested and inspected the vehicles set
21 forth in Table 3, below, and that those vehicles were in compliance with applicable laws and
22 regulations. In fact, Respondent Samaan performed those smog inspections using the clean-
23 piping method by using the tail pipe emissions of vehicles other than the vehicles being certified
24 in order to issue those certificates. None of the vehicles certified were in the test bay at the time
25 of the smog inspections.

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4 **TABLE 3**

Date & Time	Vehicle Certified	Vehicle Actually Tested	Certificate No.	Technician
1/23/2008 0830-0853 hours	1984 GMC K1500 Jimmy License No. 4JRH154	Minivan	VN294837C	Samaan
1/23/2008 0905-0926 hours	1979 Chevrolet C20 pickup License No.4K00312	Chevrolet Camaro	VN294838C	Samaan
1/23/2008 1011-1016 hours	2005 Volkswagen Passat VIN No. WVWRU63BX5E0884 16	Ford or Mercury sedan	VN294839C	Samaan
1/23/2008 1049-1054 hours	2000 Chevrolet Malibu License No. 4NPV633	Honda Civic	VN294840C	Samaan
1/23/2008 1223-1230 hours	1996 Honda Civic License No. 5BDD096	Chevrolet Blazer	VN294844C	Samaan
1/23/2008 1236-1245 hours	1995 GMC S15 Jimmy License No. 3LAW063	Ford Explorer	VN294845C	Samaan
1/23/2008 1400-1411 hours	1979 Chevrolet Monte Carlo License No. 2PJP533	Ford Ranger	VN294849C	Samaan
1/23/2008 1428-1442 hours	1992 Chevrolet Astro Van License No. 3BMF301	Ford F150 pickup	VN294850C	Samaan
1/23/2008 1526-1541 hours	1990 Oldsmobile Cutlass Supreme License No. 3VZM534	Isuzu Rodeo	VN363802C	Samaan

25 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

26 (Untrue or Misleading Statements)

27 50. Respondent Jara has subjected his registration to discipline under Code
28 section 9884.7, subdivision (a)(1), in that on or about January 23, 2008, he made statements

1 which he knew or which by exercise of reasonable care he should have known were untrue or
2 misleading when he issued the electronic certificates of compliance set forth in Table 3, above,
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4 certifying that the vehicles were in compliance with applicable laws and regulations when, in
5 fact, those vehicles had been clean-piped.

6 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

7 (Fraud)

8 51. Respondent Jara has subjected his registration to discipline under Code
9 section 9884.7, subdivision (a)(4), in that on or about January 23, 2008, he committed acts which
10 constitute fraud by issuing the electronic certificates of compliance set forth in Table 3, above,
11 without performing bona fide inspections of the emission control devices and systems on those
12 vehicles, thereby depriving the People of the State of California of the protection afforded by the
13 Motor Vehicle Inspection Program.

14 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

15 (Violation of the Motor Vehicle Inspection Program)

16 52. Respondent Jara has subjected his station license to discipline under
17 Health and Safety Code section 44072.2, subdivision (a), in that on or about January 23, 2008,
18 regarding the vehicles set forth in Table 3, above, he violated sections of that Code, as follows:

19 a. **Section 44012, subdivision (f):** Respondent Jara failed to perform
20 emission control tests on those vehicles in accordance with procedures prescribed by the
21 department.

22 b. **Section 44015, subdivision (b):** Respondent Jara issued the electronic
23 certificates of compliance for those vehicles without properly testing and inspecting them to
24 determine if the vehicles were in compliance with section 44012 of that Code.

25 c. **Section 44059:** Respondent Jara willfully made false entries for the
26 electronic certificates of compliance, by certifying that those vehicles had been inspected as
27 required when, in fact, they had not.

28 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

1 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

2 53. Respondent Jara has subjected his station license to discipline under
3 Health and Safety Code section 44072.2, subdivision (c), in that on or about January 23, 2008,
4 regarding the vehicles set forth in Table 3, above, he violated sections of the California Code of
5 Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent Jara falsely or fraudulently
7 issued the electronic certificates of compliance for those vehicles without performing bona fide
8 inspections of the emission control devices and systems on the vehicles as required by Health
9 and Safety Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent Jara issued the electronic
11 certificates of compliance set forth in Table 3, above, for those vehicles even though the vehicles
12 had not been inspected in accordance with section 3340.42 of that Code.

13 c. **Section 3340.42:** Respondent Jara failed to conduct the required smog
14 tests and inspections of those vehicles in accordance with the Bureau's specifications.

15 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

16 (Dishonesty, Fraud or Deceit)

17 54. Respondent Jara has subjected his station license to discipline under
18 Health and Safety Code section 44072.2, subdivision (d), in that on or about January 23, 2008,
19 regarding the vehicles set forth in Table 3, above, he committed acts involving dishonesty, fraud
20 or deceit whereby another was injured by issuing the electronic certificates of compliance for
21 those vehicles when, in fact, the vehicles had not been properly tested and inspected, thereby
22 depriving the People of the State of California of the protection afforded by the Motor Vehicle
23 Inspection Program.

24 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

25 (Violations of the Motor Vehicle Inspection Program)

26 55. Respondent Samaan has subjected his technician license to discipline
27 under Health and Safety Code section 44072.2, subdivision (a), in that on or about January 23,
28 2008, regarding the vehicles set forth in Table 3, above, he violated sections of that Code, as

1 follows:

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4 a. **Section 44012, subdivision (f):** Respondent Samaan failed to determine
5 that all emission control devices and systems required by law were installed and functioning
6 correctly on those vehicles in accordance with test procedures.

7 b. **Section 44032:** Respondent Samaan failed to perform tests of the
8 emission control devices and systems on those vehicles in accordance with section 44012 of that
9 Code, in that the vehicles had been clean-piped.

10 c. **Section 44059:** Respondent Samaan entered false information into the
11 EIS for the electronic certificates of compliance by certifying that those vehicles had been
12 inspected as required when, in fact, they had not.

13 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

14 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

15 56. Respondent Samaan has subjected his technician license to discipline
16 under Health and Safety Code section 44072.2, subdivision (c), in that on or about January 23,
17 2008, regarding the vehicles set forth in Table 3, above, he violated sections of the California
18 Code of Regulations, title 16, as follows:

19 a. **Section 3340.30, subdivision (a):** Respondent Samaan failed to inspect
20 and test those vehicles in accordance with Health and Safety Code section 44012.

21 b. **Section 3340.41, subdivision (c):** Respondent Samaan entered false
22 information into the EIS for the electronic certificates of compliance for those vehicles, by
23 entering vehicle identification information or emission control information for vehicles other
24 than the vehicles being tested.

25 c. **Section 3340.42:** Respondent Samaan failed to conduct the required
26 smog tests and inspections of those vehicles in accordance with the Bureau's specifications.

27 **FORTIETH CAUSE FOR DISCIPLINE**

28 (Dishonesty, Fraud or Deceit)

1 57. Respondent Samaan has subjected his technician license to discipline
2 under Health and Safety Code section 44072.2, subdivision (d), in that on or about January 23,
3 2008, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
4 issuing the electronic certificates of compliance set forth in Table 3, above, for those vehicles
5 without performing bona fide inspections of the emission control devices and systems on those

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2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Salvador Jara, also known as Salvador Jara Pinedo;

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3. Revoking or suspending Smog Check Test Only Station License Number TC 249395, issued to Salvador Jara, also known as Salvador Jara Pinedo, doing business as E & S Auto Smog;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Salvador Jara, also known as Salvador Jara Pinedo, doing business as E & S Auto Smog;

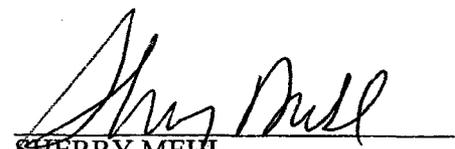
5. Revoking or suspending Advanced Emission Specialist Technician Number EA 154168, issued to Khaldoun Roufail Samaan;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Khaldoun Roufail Samaan;

7. Ordering Salvador Jara, also known as Salvador Jara Pinedo, and Khaldoun Roufail Samaan to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

8. Taking such other and further action as deemed necessary and proper.

DATED: 8/4/08



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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[bfc 7/14/08]